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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

WILDEARTH GUARDIANS, a non-profit
corporation,

Petitioner/Plaintiff,

vs.

UNITED STATES FOREST SERVICE, an
agency of the United States, et al.,

Respondents/Defendants,

and

BERRY PETROLEUM COMPANY, LLC, a
Delaware limited liability company,

Intervenor-Respondent.

**BERRY PETROLEUM COMPANY,
LLC’S SUR-REPLY TO PETITIONER’S
REPLY BRIEF (DKT. NO. 121)**

Civil Action No. 2:14-cv-00349-DN

Judge David Nuffer

Intervenor-Respondent Berry Petroleum Company, LLC (“Berry Petroleum”), by and
through counsel Holland & Hart LLP, respectfully submits this sur-reply to address arguments
raised for the first time in Petitioner WildEarth Guardian’s (“WEG”) Reply Brief, Dkt. No. 121.

In its Reply Brief, WEG raises, for the first time, an argument that the Forest Service's approval of Surface Use Plans of Operation ("SUPOs") consistent with the Master Development Plan for the South Unit, which is at the heart of WEG's challenge in this case, violates the public participation requirements of the National Environmental Policy Act ("NEPA"). Dkt No. 121, at 3–9. As set forth in the Federal Respondents' Sur-Reply to Reply Brief of Petitioner ("Federal Respondents' Sur-Reply"), these arguments are without merit. *See* Dkt. No. 133. In the interest of brevity, Berry Petroleum incorporates by reference the arguments and reasons set forth in the Federal Respondents' Sur-Reply.

For the reasons set forth above, and in the Federal Respondents' Sur-Reply, this Court should reject WEG's belated and meritless arguments regarding the approval of SUPOs consistent with the Master Development Plan for the South Unit.

RESPECTFULLY SUBMITTED this 11th day of July, 2018.

HOLLAND & HART LLP

/s/ Chelsea J. Davis

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CERTIFICATE OF SERVICE

I certify that on July 11, 2018, I electronically filed the foregoing NOTICE OF APPEARANCE OF COUNSEL with the Clerk of the Court using the CM/ECF system, which will provide notice of the same to counsel of record.

/s/ Chelsea J. Davis